

#### **IV. ELIGIBILITY FOR BENEFITS AND DISQUALIFICATION FROM BENEFITS**

The Federal acts contain no requirements concerning eligibility and disqualification provisions except the labor standard provision, page 99. Each State establishes its requirements which an unemployed worker must meet to receive unemployment insurance. All State laws require that a claimant, to receive benefits, must be able to work and must be available for work, i.e., he must be in the labor force, and his unemployment must be due to lack of work. He also must be free from disqualification for such acts as voluntary leaving without good cause, discharge for misconduct connected with the work, and refusal of suitable work. These eligibility and disqualification provisions delineate the risk which the laws cover; the able-and-available tests as positive conditions for the receipt of benefits week by week, and the disqualifications as a negative expression of conditions under which benefits are denied. The purpose of these provisions is to limit payments to workers unemployed primarily as a result of economic causes. The eligibility and disqualification provisions apply only to claimants who meet the qualifying wage and employment requirements discussed on pages 54-58.

In all States, claimants who are held ineligible for benefits because of inability to work, unavailability for work, or disqualification are entitled to a notice of determination and an appeal from the determination.

##### **Ability to Work**

The variations from State to State in the language setting forth the requirements concerning ability to work are minor. The addition of the words "physically able" or "mentally and physically able" in a few State laws has had no significant influence on the benefit decisions under the State laws.<sup>1</sup> One evidence of ability to work is the filing of claims and registration for work at a public employment office, required under all State laws.

Nine States (Delaware, Idaho, Kansas, Maine, Maryland, Montana, Nevada, Tennessee, and Vermont) have added a proviso that

<sup>1</sup> Selected benefit decisions under the State laws are published monthly by the Bureau of Employment Security in Benefit Series Service, Unemployment Insurance, which may be purchased from the Superintendent of Documents, Government Printing Office, Washington 25, D.C., for \$4 per year.

claimants who have filed a claim and have registered for work shall not be considered ineligible during an uninterrupted period of unemployment because of illness or disability, so long as no work which is suitable, but for the disability, is offered and refused. In Nevada, the proviso is effective only if the claimant resides in that State. These provisions are not to be confused with the special programs in four States for temporary disability benefits (see ch. VI).

### **Availability for Work**

The availability for work provisions have become more varied than the ability to work provisions. Nine States provide that a claimant must be available for suitable work; six States incorporate the concept of suitability for the individual claimant in terms of work in his usual occupation or for which he is reasonably fitted by training and experience (table 26). In Massachusetts an individual attending a retraining course is deemed available for work. Delaware requires an involuntarily retired worker to be available only for work which is suitable for an individual of his age or physical condition; Connecticut and New Hampshire specify that women are not required to be available for work between the hours of 1 a.m. and 6 a.m. (see page 99 for similar provision in Massachusetts). In Nebraska and New Jersey a claimant is not deemed unavailable for work solely because he is on vacation without pay if the vacation is not the result of his own action as distinguished from any collective action beyond his individual control. Michigan and West Virginia require that a claimant must be available for full-time work; Alabama and Michigan, for work in a locality where his base-period wages were earned or in a locality where similar work is available; and Illinois, work in a locality where opportunities for work are substantially as favorable as those in the locality from which he has moved. Arizona requires that at the time an individual files a claim he must be a resident of Arizona or of another State or foreign country that has entered into reciprocal arrangements with the State. Massachusetts adds a requirement that the claimant must be unable to obtain work in his usual occupation or any other occupation for which he is reasonably fitted. In Wisconsin, where eligibility for benefits is determined separately with respect to each employer in inverse chronological order, the inability and unavailability provisions are in terms of weeks for which a claimant is called on by his current employer to return to work that is actually available, and weeks of inability to work or unavailability for work if his separation was caused by his physical inability to do his work or his unavailability for work.

Availability for work as well as ability to work is evidenced by registration for work at a local employment office. Nonavailability may be evidenced by refusal of work, offered by the employment service or by a former employer, which the unemployment insurance officials consider suitable for the claimant (see page 99). In addition, 28 State laws require that a claimant be actively seeking work or making a reasonable effort to obtain work. The Maine provision is in terms of seeking work in the claimant's usual occupation or one for which he is qualified by training or experience. The Oregon requirement is in terms of "actively seeking and unable to obtain suitable work." In Ohio, Oklahoma, Vermont, and Wis-

Table 26.—Ability to work, availability for work, and seeking work requirements

State	Able to work and available for—			Actively seeking work (28 States)	State	Able to work and available for—			Actively seeking work (28 States)
	Work (36 States)	Suitable work (9 States)	Work in usual occupation or for which reasonably fitted (6 States)			Work (36 States)	Suitable work (9 States)	Work in usual occupation or for which reasonably fitted (6 States)	
Alabama			X		Missouri	X			X
Alaska		X			Montana <sup>1</sup>	X			X
Arizona	X				Nebraska	X			
Arkansas		X		X	Nevada <sup>2</sup>	X			
California	X			X	New Hampshire		X		
Colorado		X		X	New Jersey	X			X
Connecticut	X			X	New Mexico	X			X
Delaware <sup>3</sup>	X			X	New York			X	
District of Columbia					North Carolina	X			
Florida	X				North Dakota		X		X
Georgia	X			X	Ohio		X		X
Hawaii	X				Oklahoma	X			X
Idaho <sup>4</sup>		X		X	Oregon	X			X
Illinois	X			X	Pennsylvania		X		
Indiana	X			X	Rhode Island	X			
Iowa	X			X	South Carolina	X			
Kansas <sup>5</sup>	X			X	South Dakota				
Kentucky		X		X	Tennessee <sup>6</sup>	X			
Louisiana	X				Texas	X			
Maine <sup>7</sup>	X			X	Utah	X			
Maryland <sup>8</sup>	X			X	Vermont <sup>9</sup>	X			X
Massachusetts	X				Virginia	X			
Michigan			X	X	Washington			X	X
Minnesota	X				West Virginia			X	X
Mississippi	X				Wisconsin				X
					Wyoming	X			X

<sup>1</sup> In locality where base-period wages were earned or work for which claimant qualifies is available.

<sup>2</sup> Intrastate claimants are not ineligible if unavailability is caused by noncommercial fishing and hunting necessary for survival if no suitable work is offered (Alaska); commercial fisherman deemed totally unemployed if there is no severance of employer-employee relationship but fisherman earned no wages and performed no services because employer's boat was tied up by inclement weather, absence of fish in fishable waters, lack of orders, or need of repair (California); not applicable to persons unavailable 1 or 2 workdays due to death in family, or unlawful detention (California).

<sup>3</sup> Claimants are not ineligible if unavailable because of illness or disability occurring after filing claim and registering for work if no offer of work that would have been suitable at time of registration is refused after beginning of such disability; in Nevada provision applies only to claimants residing in the State.

<sup>4</sup> And is bona fide in the labor market.

<sup>5</sup> Requirement not applicable to persons 60 or over who have been furloughed and/or subject to recall. Requirement may be waived for persons unemployed because of plant shutdown of 3 weeks or less if conditions justify (Maryland). Requirement not applicable to person on involuntary vacation without pay (Nebraska and New Jersey).

<sup>6</sup> Not applicable to individual certified as attending industrial retraining course or other vocational training.

<sup>7</sup> Not mandatory.

consin the provision is not mandatory; the agency may require that the claimant, in addition to registering for work, make other efforts to obtain suitable work and give evidence of such efforts. The New Jersey law permits the director to modify the active search for work requirement when, in his judgment, such modification is warranted by economic conditions.

A determination that a claimant is unable to work or is unavailable for work applies to the time at which he is giving notice of unemployment or for the period for which he is claiming benefits. An exception to this principle is the Maine provision under which removal from a locality, where previously employed to an area where work opportunity is less frequent, disqualifies a claimant for 5 to 14 weeks and reduces his benefit rights.

Some State laws include special provisions relating to the unavailability of students or of married or pregnant women. Other States have special disqualification provisions for the same groups. There seems to be no distinction in the pattern of the two types of provisions. Therefore these special provisions are discussed on pages 105-107.

### **Disqualification from Benefits**

The major causes of disqualification from benefits are voluntary separation from work, discharge for misconduct, refusal of suitable work, and unemployment due to a labor dispute. In all States disqualification results in at least a postponement of benefits for one or more weeks in addition to any required waiting period; in some States it involves also a cancellation of benefit rights or a reduction of benefits otherwise payable. Unlike the status of unavailability for work or inability to work, which is terminated as soon as the condition changes, disqualification means that benefits are denied for a definite period specified in the law, or set by the administrative agency within time limits specified in the law, or for the duration of the period of unemployment. Frequently the disqualification lasts for the duration of the benefit year or longer.

The disqualification period is usually for the week of the disqualifying act and a specified number of consecutive calendar weeks following. Exceptions in which the weeks must be weeks following registration for work or meeting some other requirement are noted in tables 27-29. The theory of a specified period of disqualification is that, after a time, the reason for a worker's continued unemployment is due, more to the general condition of the labor market than it is to his disqualifying act. The time for which the disqualifying act is considered the reason for a worker's unemployment varies among the States and among the causes of disqualification. It varies from three weeks for two causes in New Hampshire to 10-32½ weeks

in Colorado. In 3 States the maximum disqualification period for one or more causes may be as long as the maximum duration of benefits. A number of States have a different theory for the period of disqualification. They disqualify for the duration of the unemployment or longer by requiring a specified amount of work or wages to requalify, or by canceling a disqualified worker's wage credits. These States are shown in tables 27-29. The provisions will be discussed in consideration of the disqualifications for each cause.

Nineteen States follow the same pattern for disqualifications for voluntary leaving, discharge for misconduct, and refusal of suitable work. In States with provisions of different severity for the different causes, refusal of suitable work is most often the cause with the heaviest penalty.

The provisions for postponement of benefits and cancellation of benefits must be considered together to understand the full effect of disqualification. Disqualification for the duration of the unemployment may be a slight or a severe penalty for an individual claimant, depending upon the duration of his unemployment which, in turn, depends largely upon the general condition of the labor market. When cancellation of the benefit rights based on the work left is added, as in Alabama, Michigan, and Wisconsin, the severity of the disqualification depends mainly upon the duration of the work left and the presence or absence of other wage credits. Disqualification for the duration of the unemployment and cancellation of all prior wage credits, as in Iowa and Nebraska, tend to put the claimant out of the system. If the wage credits canceled extend beyond the base period for the current benefit year, cancellation extends into a second benefit year immediately following.

In Michigan, where cancellation of wage credits with the employer from whom a claimant was separated under disqualifying conditions may deny all benefits for the remainder of the benefit year, the claimant may become eligible again for benefits without waiting for his benefit year to expire.

See table 16, footnote 2, for the provision permitting cancellation of the current benefit year and establishment of a new benefit year. Although this provision permits a claimant to draw benefits sooner than he otherwise could, he would be eligible in the new benefit year generally for a lower weekly benefit or shorter duration, or both, because part of the earnings in the period covered by the new base period would already have been canceled or used for computing benefits in the canceled benefit year.

### **Disqualification for Voluntarily Leaving Work**

In a system of benefits to compensate in part for wage loss due to lack of work, voluntarily leaving work without good cause is an

Table 27.—Disqualification for voluntary leaving, good cause and disqualification imposed

State	Good cause restricted <sup>1,2</sup> (20 States)	Benefits postponed <sup>3</sup>			Benefits reduced or canceled <sup>4,5</sup> (17 States)
		For specified number of weeks <sup>6</sup> (15 States)	For variable number of weeks <sup>6</sup> (21 States)	For duration of unemployment <sup>6</sup> (17 States)	
Alabama	X			X	Benefits based on any work left canceled.
Alaska		W+8			
Arizona	X	W+4			4 weeks.
Arkansas	X	8 <sup>6</sup>			
California		5 <sup>6</sup>			
Colorado	X		10-32½ <sup>11</sup>		Equal. <sup>3</sup>
Connecticut	X	W+4			
Delaware	X			X	
District of Columbia			W+4-6		Equal.
Florida			W+1-12 <sup>9</sup>	+10 x wba <sup>8</sup>	
Georgia	X		5-9 <sup>6,7</sup>		Equal. <sup>3</sup>
Hawaii			W+2-7		
Idaho				+30 days' wages	
Illinois		W+6 <sup>6,7</sup>		+8 x wba <sup>8</sup>	
Indiana				+10 x wba	
Iowa	X			+qualifying wages	All prior wage credits canceled.
Kansas		W+6			
Kentucky			6-16		
Louisiana	X			+10 x wba <sup>8</sup>	
Maine	X		5-14		Equal.
Maryland			W+1-9		
Massachusetts			4-10 <sup>6,10</sup>		
Michigan	X			X	Benefits rights based on any work left canceled. <sup>10</sup>
Minnesota	X		3-7 <sup>4</sup>		
Mississippi				+8 x wba	
Missouri	X			+10 x wba <sup>8</sup>	
Montana			1-4		
Nebraska			W+1-6		
Nevada			W+1-15		
New Hampshire	X			+8 weeks in covered work at wages of wba and \$3.	
New Jersey				+4 x wba	
New Mexico			W+1-13		Equal.
New York		6			
North Carolina	X		4-12 <sup>4</sup>		Equal.
North Dakota			1-3 <sup>4</sup>		
Ohio				+ wba in covered work.	
Oklahoma	X	7 <sup>4</sup>			
Oregon				+4 weeks work at weekly wages equal to wba. <sup>11</sup>	
Pennsylvania				+8 x wba	
Rhode Island				+4 weeks work with minimum weekly wages of \$20.	
South Carolina			1-5 <sup>4</sup>		Optional equal.
South Dakota			1-5 <sup>4,7</sup>		Equal.
Tennessee	X	W+4			5 weeks.
Texas	X		1-24 <sup>4</sup>		Equal.
Utah			W+1-8 <sup>4</sup>		
Vermont	X		2-9 <sup>6,11</sup>		
Virginia		7			Equal.
Washington		W+8			
West Virginia	X	W+6			6 weeks. <sup>10</sup>
Wisconsin	X	W+4		(7)	Benefit rights based on any work left canceled.
Wyoming		W+3			

<sup>1</sup> Good cause restricted to that connected with the work, attributable to the employer or involving fault on the part of the employer.

<sup>2</sup> See text for exceptions in States footnoted.

<sup>3</sup> By statute, benefits postponed and/or reduced or canceled for other than last separation as indicated: from the beginning of the base period (Colorado, Louisiana, and South Dakota); within specified periods preceding a claim 52 weeks (Georgia), 1 year (Missouri). See footnote 6 and text.

<sup>4</sup> Unless otherwise indicated in States noted, "W+4" means week of occurrence plus indicated number of weeks following. Disqualification period begins with: Week for which a claim is filed (Georgia, Massachu-

(Footnotes continued on page 91.)

obvious reason for disqualification from benefits. All States have such a disqualification provision.

*Good cause for voluntary leaving.*—In all States a worker who leaves his work voluntarily must have good cause (in Ohio, “just cause” and in Pennsylvania, “cause of a necessitous and compelling nature”) if he is not to be disqualified. In New Hampshire “good cause” need not be shown if the claimant, within 4 weeks, left work that was not suitable. In 31 States, the general “good cause” provision includes good personal cause. In 20 States (table 27) good cause is restricted to good cause connected with the work or attributable to the employer, or, in West Virginia, involving fault on the part of the employer. Connecticut, Louisiana, and Montana disqualify for involuntary as well as voluntary leaving; in Connecticut an exception is made if leaving is beyond the claimant's control solely by reason of governmental regulation or statute or if leaving is to return to regular apprenticeable trade or to regular work upon recall. In Alabama, Ohio, and Tennessee the disqualification does not apply to voluntary leaving to join the Armed Forces.

In 10 States more substantial modifications are made. The Alabama law includes two exceptions to “good cause connected with such work”: If the claimant was forced to leave work because he was sick or disabled, and he notified the employer as soon as reasonably practicable and returned and offered himself for work as soon as he was again able to work; or if the claimant left his employment and immediately took another job (except self-employment) and remained in it at least 10 weeks, provided he did not leave his new employment voluntarily without good cause connected with the work. Exceptions are made under the Arkansas and Maine law

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(Footnotes for Table 27.)

sets, North Dakota, Oklahoma, South Carolina, and Vermont); unless the claimant has bona fide employment after separation (Illinois and Utah); week following filing of claim (Texas). Weeks of disqualification must be weeks in which the claimant is otherwise eligible (Illinois); is otherwise eligible or earns wages equal to his weekly benefit amount (Arkansas and Minnesota); weeks in which the claimant meets reporting and registration requirements (California); weeks for which claim is filed within the current benefit year and following benefit year if it begins within 12 months after the current year (North Carolina); weeks of otherwise compensable unemployment (South Dakota). See also footnote 7.

<sup>1</sup> Figures show minimum employment or wages required to qualify for benefits.

<sup>2</sup> “Equal” indicates a reduction equal to the weekly benefit amount multiplied by the number of weeks of disqualification. “Optional” indicates reduction at the discretion of the agency.

<sup>3</sup> If the separating employer was the only base-period employer, cancellation results in disqualification for at least the remainder of the benefit year (Alabama and Michigan); or for at least the duration of the unemployment (Wisconsin).

<sup>4</sup> Agency may add 1-8 weeks more for successive disqualifications.

<sup>5</sup> State counted in two columns. See text for explanation of 2 disqualification periods.

<sup>6</sup> If individual left to accept permanent full-time work with another employer: Disqualification is reduced by number of weeks in new work subsequent to leaving, and no disqualification is imposed if he became separated from such new work for good cause attributable to new employing unit (Massachusetts); benefit rights are restored if he is laid off for lack of work by the new employer within 39 weeks or, if he left to return to a former employer in response to a recall, benefit credits are transferred to recalling employer and cancellation does not apply (Michigan). Deduction receded if individual returns to covered employment during benefit year (West Virginia).

<sup>7</sup> A disqualification of 1-10 weeks is imposed if voluntary leaving is without good cause but under extenuating circumstances (Colorado); disqualification may be reduced to 8 weeks if individual is otherwise eligible but is unable to obtain suitable work (Oregon); a disqualification of 1-8 weeks is applicable if health prevents discharging duties required (Vermont).

for a claimant who makes a reasonable effort to preserve his job rights if he left because of illness, injury, disability, or personal emergency. Delaware exempts from disqualification a claimant who left work because of illness if he is able to work and is available for work when he claims benefits. Tennessee exempts from disqualification, a claimant who left work because of his own personal injury or serious illness, evidence of which is supported by medical proof.

The Iowa law includes seven exceptions to "good cause attributable to the employer": If the claimant left solely to accept better employment and remained in it at least 6 weeks; if he left temporary work to return to his regular employer, having notified his temporary employer that he would do so as soon as work was available on his regular job; if he left solely to care for a member of his family who was ill, and he offered his services as soon as the relative recovered; if he left work, upon the advice of a doctor because of personal illness or injury, notified his employer but when he returned after recovery, his regular or comparable work was not available; if he left work to move a member of his family to a different climate, upon the advice of a doctor (during which absence he is unavailable) notwithstanding he obtains temporary employment, after which, his regular or comparably suitable work is not available; if he left work for compelling personal reasons, not to exceed 10 days unless extended by employer, and his regular or comparably suitable work was not available when he returned, immediately after such compelling reasons ceased; or if he was laid off but left work previous to layoff, provided the voluntary separation occurred before 90 days prior to filing a claim. The Minnesota law has three similar provisos: If the claimant left to accept new work in accordance with war manpower policies or to accept substantially better work, or because of serious illness. The Missouri law does not disqualify if the claimant left work to accept a more remunerative job and earned some wages therein or left temporary work to return to his regular employer. The Wisconsin law includes, in addition to good cause attributable to the employer, leaving for compelling personal reasons, and to take another job. The Georgia commissioner may waive the disqualification if, after giving notice, the claimant left his work to accept a better job and remained in such job for a reasonable time thereafter.

In most States disqualification is based on circumstances of the separation from the *most recent* employment. Laws of these States are in terms of such language as disqualification if a claimant "has left his *most recent* work voluntarily without good cause" or "disqualified for the week in which he has left work voluntarily without good cause, if so found by the commission, and for the [specified



number of] weeks which *immediately* follow such week." Most States with the latter provision interpret that any bona fide employment in the period specified terminates the disqualification but some interpret the disqualification to continue until the end of the period specified regardless of intervening employment. In a few States the agency looks to the causes of all separations within the disqualification period.

Michigan and Wisconsin, which compute benefits separately for each employer to be charged, consider the reason for separation from each employer when his account becomes chargeable and cancel all wage credits with that employer if the separation was a disqualifying one. The following States have specific provisions that a potentially disqualifying act which happened within the period specified must be taken into consideration: Colorado, Louisiana, and South Dakota, from the beginning of the base period; Georgia, within 52 weeks preceding a claim; Missouri, within a year preceding a claim. Alabama and Iowa which cancel benefit rights based on any work left under disqualifying circumstances, not just most recent work left, take into consideration all separations since the beginning of the base period.

*Period of disqualification.*—In 15 States the period of disqualification for voluntary leaving is a specified number of weeks; in 21 States, a variable number of weeks; in 17 States, for the duration of the unemployment or longer.

Florida provides 2 periods of disqualification, 1 to 12 weeks and for the full period of unemployment until the worker has earned wages equal to 10 times his weekly benefit. The latter provision would be controlling if the claimant was long unemployed; the specific number of weeks would control if he obtained employment and had again become unemployed before the end of his disqualification period. In Illinois the period limited to 6 weeks applies to a claimant who had wages in at least 3 calendar quarters of his base period; for a claimant with wages in only 2 quarters, the period is extended until he is reemployed and has earned wages equal to six times his weekly benefit. In 14 of the States with disqualification for the duration of the unemployment, including Florida and Illinois, the law specifies the period of employment or the amount of wages necessary to requalify for benefits (table 27).

*Cancellation of benefit rights.*—In 17 States, in addition to the postponement of benefits, benefit rights are canceled or reduced, usually to the extent of the disqualification imposed. In Alabama all benefits based upon the employment which the worker left are canceled; if the worker had no other employers after the beginning of the base period, this cancellation would result in disqualification

not only for the duration of the unemployment but also for the remainder of the benefit year and until the worker had enough subsequent employment to qualify for a second benefit year. However, if he had had other base-period employers, he might be eligible without delay for benefits based on his wages with them. In Iowa all benefit rights prior to separation are canceled and such cancellation affects rights in a second benefit year. In Michigan and Wisconsin, where benefits are computed separately for each employer in inverse chronological order, all benefit rights earned with the employer concerned in the determination are canceled in cases of voluntarily leaving without good cause, and in Wisconsin benefit rights earned with earlier employers are postponed for 4 weeks. In Michigan disqualification is for the duration of the unemployment but, if the worker left to accept permanent full-time work with another employer, his canceled wage credits are restored if he is laid off by the new employer within 39 weeks following such separation; if he left, in response to a recall, to return to work with an employer for whom he had worked during the preceding 52 weeks his credit weeks are not canceled. In West Virginia reemployment in a benefit year cancels the reduction of benefit rights imposed with the disqualification.

The disqualification imposed for voluntary leaving without good cause may be summarized as follows:

<i>Provision</i>	<i>Number of States<sup>1</sup></i>	
All States -----	—	51
No reduction of benefit rights -----	34	—
Reduction of benefit rights -----	17	—
Maximum period of 6 weeks or less -----	—	14
No reduction of benefit rights -----	9	—
Reduction of benefit rights -----	5	—
Maximum period of more than 6 weeks -----	—	20
No reduction of benefit rights -----	11	—
Reduction of benefit rights -----	9	—
Disqualification for the duration of unemployment or longer --	—	17
No reduction of benefit rights -----	14	—
Reduction of benefit rights -----	3	—

<sup>1</sup> Counting Florida and Illinois in the unlimited group; see table 27.

*Relation to availability provisions.*—A claimant who is not disqualified for leaving work voluntarily because he left with good cause is not necessarily eligible to receive benefits. If he left because of illness or to take care of illness in the family, he may not be able to work or be available for work. In most States his ineligibility for benefits would extend only until he was able to work or was available for work rather than for the fixed period of disqualification for voluntary leaving.

## Discharge for Misconduct Connected With the Work

The provisions for disqualification for discharge for misconduct follow a pattern similar but not identical to that for voluntary leaving. There is more tendency to provide disqualification for a variable number of weeks "according to the seriousness of the misconduct." In addition, 18 States provide for heavier disqualification in the case of discharge for a dishonest or criminal act or other aggravated misconduct.

Some of the State laws define misconduct in the law in such terms as "wilful misconduct" (Connecticut and Pennsylvania), "deliberate misconduct in willful disregard of the employing unit's interest" (Massachusetts), and "failure to obey orders, rules or instructions or the failure to discharge the duties for which he was employed" (Georgia). Kentucky provides that "legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct." Detailed interpretations of what constitutes misconduct have been developed in each State's benefit decisions.

Disqualification for discharge for misconduct, as that for voluntary leaving, is usually based on circumstances of the separation from the most recent employment. As indicated in table 28, however, in eight States the statute requires consideration of the reasons for separation from employment other than the most recent.

*Period of disqualification.*—Twenty-seven States have a variable disqualification for discharge for misconduct (table 28). In some, the range is small, e.g., 3 to 6 weeks in Alabama and 1 to 4 weeks in Montana; in some States the range is large, e.g., 1 to 22 weeks in South Carolina and 1 to 24 weeks in Texas. Sixteen States provide flat disqualification and 10 States, including Florida and Illinois with the two disqualification periods described on page 93, disqualify for the duration of the unemployment or longer.

Seventeen States cancel all or some of the claimant's benefit rights; in West Virginia the 6 weeks deducted can be recredited if the individual returns to covered employment during the benefit year.

Fifteen States provide for disqualification for disciplinary suspensions as well as for discharge for misconduct. Seven States provide the same disqualification for both causes. In the other eight States the disqualification differs as indicated in footnote 6 of table 28.

*Disqualification for gross misconduct.*—Eighteen States have special provisions for what may be called aggravated misconduct. Heavier disqualifications are imposed for dishonest or criminal acts or for "gross, flagrant, willful, and unlawful misconduct" or for

Table 28.—Disqualification for discharge for misconduct

State	Benefits postponed <sup>1</sup>			Benefits reduced or canceled <sup>2</sup> (17 States)
	For specified number of weeks <sup>3</sup> (16 States)	For variable number of weeks <sup>3</sup> (27 States)	For duration of unemployment <sup>3</sup> (10 States)	
Alabama <sup>4</sup> & ..	W+6	W+3-6		Equal.
Alaska <sup>5</sup>	W+4			
Arizona	8 <sup>2</sup>			4 weeks.
Arkansas <sup>4</sup>	8 <sup>2</sup>			
California	8 <sup>2</sup>			
Colorado <sup>4</sup>		1-10		Equal. <sup>1</sup>
Connecticut	W+4			
Delaware			X	
District of Columbia		W+4-9		Equal.
Florida		W+1-12 <sup>1</sup>	+10 x wba <sup>1</sup>	
Georgia <sup>4</sup>		6-11 <sup>1</sup>		Equal.
Hawaii		W+2-7		
Idaho			+30 days' wages	
Illinois <sup>4</sup>	W+6 <sup>1</sup>		+6 x wba <sup>1</sup>	
Indiana <sup>4</sup> & ..			+10 x wba	
Iowa		4-9 <sup>1</sup>		Equal.
Kansas <sup>4</sup>	W+6			
Kentucky <sup>4</sup>		6-16		
Louisiana <sup>4</sup>			+10 x wba <sup>1</sup>	
Maine <sup>4</sup>		W+7-14		Equal.
Maryland <sup>4</sup> & ..		W+1-9		
Massachusetts <sup>4</sup>		4-10 <sup>1</sup>		
Michigan <sup>4</sup>			X	Benefit rights based on any work involved canceled. <sup>4</sup>
Minnesota		2-7 <sup>1</sup>		
Mississippi		W+1-12		
Missouri <sup>4</sup> & ..		1-8 <sup>1</sup>		
Montana		1-4		
Nebraska <sup>4</sup>		W+1-6		
Nevada		W+1-16		
New Hampshire <sup>4</sup> & ..	W+3			3 weeks.
New Jersey	W+5			
New Mexico		W+1-13		Equal.
New York	6			
North Carolina <sup>4</sup>		6-12 <sup>1</sup>		Equal.
North Dakota <sup>4</sup>		1-11 <sup>1</sup>		
Ohio <sup>4</sup> & ..			+wba in covered work.	
Oklahoma	7 <sup>2</sup>			
Oregon			+4 weeks' work at weekly wages equal to wba. <sup>1</sup>	
Pennsylvania <sup>4</sup>			+8 x wba	
Rhode Island		W+8-10		
South Carolina <sup>4</sup>		1-22 <sup>1</sup>		
South Dakota <sup>4</sup>		1-10 <sup>1</sup>		Equal.
Tennessee <sup>4</sup>	W+4			Equal.
Texas		1-24 <sup>1</sup>		Equal.
Utah <sup>4</sup>		W+1-9		
Vermont		8-12 <sup>1</sup>		
Virginia		7-11		Equal.
Washington <sup>4</sup>	W+3			
West Virginia	W+6			
Wisconsin <sup>4</sup>	W+3		( <sup>1</sup> )	6 weeks. <sup>11</sup>
Wyoming	W+3			Benefits rights based on any work involved canceled. <sup>1</sup>

<sup>1</sup> By statute, benefits postponed and/or reduced or canceled for other than last separation as indicated: from the beginning of the base period (Colorado, Iowa, Louisiana, and South Dakota); within specified periods preceding a claim 52 weeks (Georgia), 1 year (Missouri). See footnote 9 and text, p. 88.

<sup>2</sup> Unless otherwise indicated in States noted, "W+" means week of occurrence plus indicated number of weeks following. Disqualification period begins with: Week for which a claim is filed (Georgia, Massachusetts, North Dakota, Oklahoma, South Carolina, Tennessee, and Vermont) unless the claimant has bona fide employment after separation (Illinois); week following filing of claim (Texas). Weeks of disqualification must be weeks in which the claimant is otherwise eligible (Illinois); is otherwise eligible or earns wages equal to his weekly benefit amount (Arkansas and Minnesota); weeks in which the claimant meets reporting and registration requirements (California and Missouri); weeks for which claim is filed within the current benefit year and following benefit year if it begins within 12 months after the current year (North Carolina); weeks of otherwise compensable unemployment (South Dakota). See also footnote 7.

<sup>3</sup> Figures show minimum employment or wages required to qualify for benefits.

(Footnotes continued on page 97.)

"forgery, larceny or embezzlement" or for "arson, intoxication, sabotage or dishonesty."

In Alabama a claimant discharged for a dishonest or a criminal act in connection with his work is disqualified for the duration of his unemployment and his wages from the discharging employer are canceled. Arkansas disqualifies a claimant discharged for dishonesty, intoxication, or willful violation of safety rules for the duration of his unemployment and until he has had 10 weeks of work in each of which his earnings equaled his weekly benefit amount. Colorado disqualifies an individual for 10 to 32½ weeks, with equal reduction of benefit rights for theft from employer, or other crimes committed while on duty, assault and battery upon employer or other fellow workers, drunkenness on the job, willful neglect or damage to employers' property or interest. Indiana cancels all prior wages of a worker discharged for dishonesty connected with his work. In Kentucky a claimant who is discharged for dishonesty in connection with his work is disqualified for the duration of his unemployment; in Maine, if he is convicted of a felony or misdemeanor in connection with his work, he is disqualified until he earns \$300 (the minimum amount required to qualify); and in Utah he is disqualified for a year if the dishonesty constitutes a crime which the claimant admitted or of which he was convicted. A Louisiana claimant discharged for misconduct that has impaired the rights, property, or reputation of a base-period employer or a Maryland claimant discharged for gross misconduct is disqualified for the duration of his unemployment and until he has earned wages equal to 10 times his weekly benefit amount. In addition, Louisiana cancels benefit rights based on wages from such employer. The Missouri agency may cancel all or part of an individual's wage credits earned from an employer who discharged him for aggravated misconduct and the South Carolina agency may reduce the total weeks of benefits due by the number of weeks for which the claimant was disqualified. The most usual penalty (Illinois, Indiana,

(Footnotes for Table 28.)

<sup>1</sup> "Equal" indicates a reduction equal to the weekly benefit amount multiplied by the number of weeks of disqualification.

<sup>2</sup> State imposes heavier disqualification for aggravated, dishonest, or criminal conduct. See text.

<sup>3</sup> Same disqualification applies to suspension as well as discharge for misconduct (Alaska, Georgia, Maryland, Missouri, Pennsylvania, South Dakota, and Washington); claimant disqualified for first 4 weeks he is suspended as disciplinary measure or for misconduct (Alabama); claimant disqualified for week of suspension for misconduct and up to 5 weeks (Indiana); claimant disqualified for first 10 weeks he is suspended as discipline for violation of established rules or regulations of the employing unit (Massachusetts); each week of suspension based upon misconduct connected with his work (Michigan and Ohio); each week of suspension of not more than 2 weeks (New Hampshire); each week of a suspension of not more than 30 days (North Dakota); each week he is suspended for misconduct and the first 3 weeks he is suspended for other good cause (Wisconsin).

<sup>4</sup> Agency may add 1-8 weeks more for successive disqualification.

<sup>5</sup> State counted in two columns. See text for explanation of 2 disqualification periods.

<sup>6</sup> If separating employer was only base-period employer, cancellation results in disqualification for at least the remainder of the benefit year (Michigan), or for at least the duration of the unemployment (Wisconsin).

<sup>7</sup> Disqualification may be reduced to 8 weeks if individual is otherwise eligible but is unable to obtain suitable work.

<sup>8</sup> Deduction recredited if individual returns to covered employment during benefit year.

Nebraska, North Carolina, and Tennessee) is cancellation of all wage credits if the claimant is discharged for gross misconduct or admits or is convicted of an unlawful act in connection with his work. In Kansas, if a claimant is discharged for a felony, all his benefit rights are canceled but if he is not convicted the wage credits are restored. In all these States the cancellation of wage credits prior to discharge means a disqualification that extends into a second benefit year.

The New Hampshire law provides for two degrees of gross misconduct. Discharge for arson, sabotage, felony or dishonesty cancels all prior wage credits; discharge for intoxication which interferes with work postpones benefits from 4 to 26 weeks. In Ohio, if an individual was discharged by a base-period employer or from his most recent work for dishonesty in connection with his work and the dishonesty is admitted by the individual or results in his conviction, all wage credits earned from such employer are canceled.

The disqualifications imposed for discharge for misconduct and discharge for aggravated misconduct are summarized below:

<i>Provision</i>	<i>Number of States<sup>1</sup> with specified provision for—</i>			
	<i>Misconduct</i>		<i>Aggravated misconduct</i>	
All States -----	—	51	—	18
With no reduction of benefit rights -----	33	—	3	—
With reduction of benefit rights -----	18	—	15	—
Maximum period 6 weeks or less -----	—	13	—	0
With no reduction of benefit rights -----	7	—	0	—
With reduction of benefit rights -----	6	—	0	—
Maximum period limited but over 6 weeks -----	—	28	—	3
With no reduction of benefit rights -----	16	—	0	—
With reduction of benefit rights -----	12	—	3	—
Disqualification for the duration of unemployment or longer -----	—	10	—	15
With no reduction of benefit rights -----	9	—	4	—
With reduction of benefit rights -----	1	—	11	—

<sup>1</sup> Counting Florida and Illinois in the unlimited group; see table 28.

### **Disqualification for a Refusal of Suitable Work**

Disqualification for a refusal of work is provided in all State laws with diverse provisions concerning the extent of the disqualification imposed, smaller differences in the factors to be considered in determining whether work is suitable or the worker has good cause for refusing it, and practically identical statements concerning the conditions under which "new work" may be refused without disqualification. To protect labor standards the Federal Unemployment Tax Act provides that no State law will be approved, so that employers may credit their State contributions against the Federal tax, unless the State law provides that:

Compensation shall not be denied in such State to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (A) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (B) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (C) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

*Criteria for suitable work.*—In addition to these mandatory minimum standards, most State laws list certain criteria by which the suitability of a work offer is to be tested. The usual criteria are the degree of risk to a claimant's health, safety, and morals; his physical fitness and prior training, experience, and earnings; the length of his unemployment and his prospects for securing local work in his customary occupation; and the distance of the available work from his residence. However, Alabama and West Virginia specifically provide that no work is unsuitable because of distance if it is in substantially the same locality as the claimant's last regular employment and if he left that employment voluntarily without good cause connected with it. Michigan, which includes the usual criteria, provides that work in a claimant's customary occupation under conditions of work and remuneration substantially equivalent to those under which he is customarily employed shall be deemed suitable.

The disqualification for refusal of suitable work is usually imposed for a failure, without good cause, to apply for available suitable work when so directed by the employment office or to accept suitable work when offered. Some States add "to return to customary self-employment"; some specify that suitable work is not necessarily limited to covered employment. Four State laws make no reference to the suitability of work offered but provide for disqualification for refusals of work for which a claimant is reasonably fitted (Delaware, Maine, and New York) or for which he is physically and mentally qualified (Montana). Massachusetts does not deem work between the hours of 11 p.m. and 6 a.m. suitable for women.

*Disqualification imposed.*—Fourteen States disqualify for a specified number of weeks (3 to 8) any claimants who refuse suitable work. Twenty-three States postpone benefits for a variable number of weeks with the maximum ranging from 4 in Massachusetts and Montana to 16 in Kentucky. Fifteen States (including Florida, see page 93) disqualify, for the duration of the unemployment or longer, claimants who refuse suitable work. Eleven of these specify

Table 29.—Disqualification for refusal of suitable work

State	Benefits postponed <sup>1</sup>			Benefits reduced or canceled <sup>4</sup> (18 States)
	For specified number of weeks <sup>2</sup> (14 States)	For variable number of weeks <sup>3</sup> (23 States)	For duration of unemployment <sup>3</sup> (15 States)	
Alabama.....		6-10 <sup>4</sup>		
Alaska.....	W+6.....			
Arizona.....		W+1-3.....		
Arkansas.....	8 <sup>5</sup>			
California.....		2-10 <sup>5</sup>		
Colorado.....		1-10.....		Equal. <sup>1</sup>
Connecticut.....	W+4.....			
Delaware.....			X.....	
District of Columbia.....		W+4-9.....		Equal.
Florida.....		W+1-5 <sup>7</sup>	+10 x wba <sup>7</sup>	Optional 1-3 weeks.
Georgia.....		5-9 <sup>11</sup>		Equal.
Hawaii.....		W+2-7.....		
Idaho.....			+30 days' wages.....	
Illinois.....	W+5 <sup>7</sup>			
Indiana.....			+10 x wba.....	
Iowa.....			+wages to re-qualify. <sup>8</sup>	Wage credits prior to refusal canceled. <sup>9</sup>
Kansas.....	W+6.....			
Kentucky.....		1-15.....		
Louisiana.....			+10 x wba.....	
Maine.....			X.....	
Maryland.....		W+1-10.....		
Massachusetts.....		W+1-4.....		Optional 1-4 weeks.
Michigan.....			X.....	Benefit rights based on prior work for employer canceled. <sup>9</sup>
Minnesota.....	W+3 <sup>7</sup>			
Mississippi.....		W+1-12.....		
Missouri.....			+10 x wba <sup>1</sup>	
Montana.....		W+1-4.....		
Nebraska.....			+wages to re-qualify. <sup>8</sup>	Wage credits prior to refusal canceled. <sup>9</sup>
Nevada.....		W+1-15.....		
New Hampshire.....	W+3.....			
New Jersey.....	W+3.....			
New Mexico.....		W+1-13.....		Equal.
New York.....	6.....			
North Carolina.....		4-12 <sup>7</sup>		Equal.
North Dakota.....		W+1-7.....		
Ohio.....			+wba in covered work.....	
Oklahoma.....	W+6.....			
Oregon.....			+4 weeks work and 4 x wba. <sup>11</sup>	
Pennsylvania.....			X.....	
Rhode Island.....	W+5.....			
South Carolina.....		W+1-5.....		Optional 1-5 weeks.
South Dakota.....		1-10 <sup>12</sup>	( <sup>6</sup> )	Equal.
Tennessee.....	W+4.....			Equal. <sup>9</sup>
Texas.....		1-12.....		Equal. <sup>1</sup>
Utah.....		W+1-5.....		
Vermont.....	W+6 <sup>7</sup>			
Virginia.....		7-11 <sup>7</sup>		Equal.
Washington.....			+5 weeks work and 5 x wba.....	
West Virginia.....		W+4 or more <sup>10</sup>		Equal. <sup>10</sup>
Wisconsin.....			4 weeks' work and 4 x wba.....	
Wyoming.....	W+3.....			

<sup>1</sup> By statute, benefits postponed and/or reduced or canceled for refusals during other than current period of unemployment as indicated: from the beginning of the base period (Colorado and South Dakota); within current benefit year (Texas); within specified periods preceding a claim, 62 weeks (Georgia), 1 year (Missouri).

<sup>2</sup> Unless otherwise indicated in States noted, "W+" means week of occurrence plus indicated number of weeks following. Disqualification period begins with week for which a claim is filed (Georgia); unless

(Footnotes continued on page 100.)



an amount that the claimant must earn or a period of time he must work to remove the disqualification (table 29).

In addition 16 States reduce or cancel benefit rights when any such disqualification is imposed; three other States provide for reduction at the agency's discretion. Michigan cancels any benefit rights based on prior work for the employer who offered the job that was refused; Tennessee cancels benefit rights only if the claimant refuses to return to his previous employment even though, when laid off, he received notice of the date when work again would be available. Iowa and Nebraska cancel all benefit rights earned prior to a refusal. If the employer who offered the job was the claimant's only base-period employer, the Michigan and Tennessee cancellation provisions result in disqualification until the claimant again qualifies. The Iowa and Nebraska cancellation provisions have the effect of disqualifying the claimant for the remainder of the current benefit year and until he has earned sufficient wages to qualify in a subsequent benefit year.

The relationship between availability for work and refusal of suitable work was pointed out in the discussion of availability, page 86. The Wisconsin provisions for suitable work recognize this relationship by stating "If the commission determines that \* \* \* a failure [to accept suitable] has occurred with good cause, but that the employee is physically unable to work or substantially unavailable for work, he shall be ineligible for the week in which such failure occurred and while such inability or unavailability continues."

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(Footnote for Table 29.)

the claimant has bona fide employment after refusal (Illinois); weeks following disqualification for voluntary leaving or misconduct, if any (Virginia); waiting period not required of claimants disqualified for refusal of suitable work (Vermont). Weeks of disqualifications must be weeks in which the claimant is otherwise eligible (Illinois) or otherwise eligible or earns wages equal to his weekly benefit amount (Arkansas and Minnesota); weeks in which the claimant meets reporting and registration requirements (California); weeks for which claim is filed within the current benefit year and following benefit year if it begins within 12 months after the current year (North Carolina); weeks of otherwise compensable unemployment (South Dakota). See footnote 6.

<sup>1</sup> Figures show minimum employment or wages required to requalify for benefits.  
<sup>2</sup> "Equal" indicates a reduction equal to the weekly benefit amount multiplied by the number of weeks of disqualification. "Optional" indicates reduction at the discretion of the agency.

<sup>3</sup> Not applicable unless claimant has established a benefit year or is seeking to establish a benefit year at time of refusal.

<sup>4</sup> Agency may add 1-8 weeks more for successive disqualifications (California). Claimant may be disqualified until he earns 8 times weekly benefit amount for repeated refusals (South Carolina).

<sup>5</sup> State counted in two columns. See text for explanation of 2 disqualification periods.  
<sup>6</sup> Cancellation results in disqualification for the remainder of the benefit year and until the claimant again meets qualifying wage requirement (see table 17).

<sup>7</sup> All benefit rights earned with the employer involved canceled if claimant refuses work offered by an employer in the base period or in the current benefit year (Michigan) or if claimant refused to return to previous employment after layoff with notice of date on which work again would be available (Tennessee). If employer involved was only employer since beginning of base period, cancellation results in disqualification until the claimant has enough employment and wages to qualify again.

<sup>8</sup> Plus such additional weeks as offer remains open. Deduction recroditied if individual returns to covered employment during benefit year.

<sup>9</sup> Disqualification may be reduced to 8 weeks if individual is otherwise eligible but is unable to obtain suitable work.

The disqualifications imposed for refusal of suitable work are summarized below:

<i>Provision</i>	<i>Number of States</i> <sup>1</sup>	
All States -----	—	51
No reduction of benefit rights -----	35	—
Reduction of benefit rights -----	16	—
Maximum period of 6 weeks or less -----	—	14
No reduction of benefit rights -----	11	—
Reduction of benefit rights -----	3	—
Maximum period of more than 6 weeks -----	—	22
No reduction of benefit rights -----	13	—
Reduction of benefit rights -----	9	—
Disqualification for the duration of unemployment or longer--	—	15
No reduction of benefit rights -----	11	—
Reduction of benefit rights -----	4	—

<sup>1</sup> Counting Florida in the unlimited group and West Virginia in the under 6-weeks group; see table 29.

## Labor Disputes

The disqualifications for unemployment due to labor disputes differ considerably from those for voluntary leaving, discharge for misconduct, and refusal of suitable work.

*Definition of labor dispute.*—The laws differ in the use of terms—for example; labor dispute, trade dispute, strike, and strike and lockout. Nine States exclude lockouts, presumably to avoid penalizing workers for the employer's action; three States exclude disputes due to the employer's failure to conform to the provisions of a labor contract, and four States, those due to failure to conform to any law of the United States or the State on such matters as wages, hours, working conditions, or collective bargaining, or disputes where the employees are protesting substandard working conditions (table 30).

*Location of the dispute.*—Usually a worker is not disqualified unless the labor dispute is in the establishment in which he was last employed. Idaho omits this provision; Connecticut includes unemployment due to the existence of a labor dispute in any establishment operated by the employer within the State; Oregon, Texas, and Virginia include a dispute at any other premise which the employer operates if the dispute makes it impossible for him to conduct work normally in the establishment in which there is no labor dispute. Michigan specifically disqualifies workers who stopped work voluntarily in sympathy with striking employees in some other establishment or department of the same employer and those who became unemployed indirectly because of a stoppage of work in some other department or unit.

*Period of disqualification.*—In 49 States, labor-dispute disqualifications last, in general, as long as the labor dispute. In 34 of these

Table 30.—Disqualification for unemployment due to labor dispute

State	Duration of disqualification			Disputes excluded if due to—			Individuals are excluded if neither they nor any of the same grade or class are—		
	During stoppage of work due to dispute (34 States)	While dispute in active progress (12 States)	Other (5 States)	Employer's failure to conform to—		Look-out (9 States)	Participating in dispute (43 States)	Financing dispute (31 States)	Directly interested in dispute (42 States)
				Contract (3 States)	Labor Law (4 States)				
Alabama.....		X							
Alaska.....	X			X	X		X		X
Arizona.....			<sup>1</sup> X	X	X		X	X	X
Arkansas.....			<sup>4</sup> X			X			
California.....		X							
Colorado.....	X						X	X	X
Connecticut.....			<sup>1</sup> X			X	X	X	X
Delaware.....	X								
District of Columbia.....		X					X		X
Florida.....		X					X	X	X
Georgia.....	X						X		X
Hawaii.....	X						X		X
Idaho.....	X						X		X
Illinois.....	X						X	<sup>1</sup> X	X
Indiana.....	X						X	X	X
Iowa.....	X						X	X	X
Kansas.....	X						X	X	X
Kentucky.....		X				X			
Louisiana.....		X					<sup>1</sup> X		<sup>1</sup> X
Maine.....	X						X	X	X
Maryland.....	X						X	X	X
Massachusetts.....	<sup>1</sup> X						<sup>1</sup> X	<sup>1</sup> X	<sup>1</sup> X
Michigan.....	X								
Minnesota.....		X				X			
Mississippi.....	X					X	X		X
Missouri.....	<sup>1</sup> X				X		X	X	X
Montana.....	X						X	X	X
Nebraska.....	X						X	X	X
Nevada.....		X					X	X	X
New Hampshire.....	<sup>1</sup> X			X		X	X	X	X
New Jersey.....	X						X	X	X
New Mexico.....	X						X		X
New York.....			<sup>1</sup> X						
North Carolina.....	X						X	X	X
North Dakota.....	X								
Ohio.....	X					X	X	X	X
Oklahoma.....	X						X	X	X
Oregon.....		X					X	X	X
Pennsylvania.....	X					X	X	X	X
Rhode Island.....			<sup>1</sup> X				<sup>1</sup> X	<sup>1</sup> X	<sup>1</sup> X
South Carolina.....		X					X	X	X
South Dakota.....	X						X	X	X
Tennessee.....		X					X	X	X
Texas.....	<sup>1</sup> X						<sup>1</sup> X	<sup>1</sup> X	<sup>1</sup> X
Utah.....	X				X				(1)
Vermont.....	X						X	X	X
Virginia.....	X						X	X	X
Washington.....	X						X	X	X
West Virginia.....	X			(1)		X	X	X	X
Wisconsin.....		X							
Wyoming.....	X						X	X	X

<sup>1</sup> So long as unemployment is due to existence of labor dispute.<sup>2</sup> Applies only to individual, not to others of same grade or class.<sup>3</sup> Disqualification is not applicable if claimant obtains employment with a subject employer and is paid wages of at least \$500. However, the base-period wages earned from the employer involved in the labor dispute cannot be used to pay benefits during such labor dispute.<sup>4</sup> See text for details.<sup>5</sup> Fixed period: 7 consecutive weeks and the waiting period or until termination of the dispute (New York); 6 weeks and the waiting period (Rhode Island). See table 18 for waiting period requirements.<sup>6</sup> So long as unemployment is due to the claimant's stoppage of work which exists because of a labor dispute. Failure or refusal to cross picket line or to accept and perform his available and customary work in the establishment constitutes participation and interest.<sup>7</sup> Disqualification is not applicable if employees are required to accept wages, hours, or other conditions substantially less favorable than those prevailing in the locality or are denied the right of collective bargaining.

States the period of disqualification ends whenever the "stoppage of work because of a labor dispute" comes to an end or the stoppage ceases to be due to the labor dispute. In 12 States, disqualifications last while the labor dispute is in "active progress," and in Arizona and Connecticut, while the workers' unemployment is due to a labor dispute (table 30). A few State laws allow individuals to terminate a disqualification by showing that the labor dispute (or the stoppage of work) is no longer the cause of their unemployment. Thus the Missouri law specifies that bona fide employment of the claimant for at least the major part of each of 2 weeks will terminate the disqualification; and the New Hampshire law specifies that the disqualification will terminate 2 weeks after the dispute is ended even though the stoppage of work continues. In contrast, the Arkansas law extends the disqualification for a reasonable period of time necessary for the establishment to resume normal operations. Under the Massachusetts law a claimant may receive benefits if, during a stoppage of work due to a labor dispute, he obtains employment with another employer and earns wages of at least \$650 (the amount required to qualify); however, base-period wages earned with the employer involved in the dispute cannot be used for benefit payments while the stoppage of work continues.

Only two States provide for a definite period of disqualification. In New York a worker who lost his employment because of a strike or lockout in the establishment where he was employed can accumulate "effective days" after the expiration of 7 weeks and the waiting period, or earlier if the controversy is terminated earlier. In Rhode Island a worker who became unemployed because of a strike in the establishment in which he was employed is entitled to benefits for unemployment which continues after a 6-week disqualification period and a 1-week waiting period.

*Exclusion of individual workers.*—The California law applies the disqualification only to individuals who left work because of the dispute. In Texas the unemployment must be due to the claimant's stoppage of work. Kentucky, Minnesota, Rhode Island, and Wisconsin limit the disqualification to workers whom the dispute caused to lose or leave their employment. Utah applies a disqualification only in case of a strike involving a claimant's grade, class, or group of workers if one of the workers in the grade, class, or group fomented or was a party to the strike; if the employer or his agent and any of his workers or their agents conspired to foment the strike, no disqualification is applied. Massachusetts provides specifically that benefits will be paid to an otherwise eligible individual from his period of unemployment to the date a strike or lockout commenced, if he becomes involuntarily unemployed during negotiations

of a collective bargaining contract; Minnesota provides that an individual is not disqualified if he is dismissed during negotiations prior to a strike; and Ohio provides that the labor dispute disqualification will not apply if claimant is laid off for an indefinite period or separated prior to dispute, or he obtains a bona fide job with another employer while dispute is still in progress. The other States provide that individual workers are excluded if they and others of the same grade or class are not participating in the dispute (43 States), financing it (31 States), or directly interested in it (42 States), as indicated in table 30. A few States omit "others of the same grade or class." Only Alabama, Delaware, and New York have no "escape clause."

### **Disqualification of Special Groups**

Under all State laws, students who are not available for work while attending school, women who are unable to work because of pregnancy, and women who quit their jobs because of marital obligations which make them unavailable for work would not qualify for benefits under the regular provisions concerning ability to work and availability for work. However, 38 States make special mention of pregnant women or married women or both, and most of them restrict benefits more than under the usual disqualification provisions. Fifteen States have special provisions concerning the benefit rights of students. New York (not included in any of these lists) has a general provision that any claimant who leaves work voluntarily under circumstances which show a bona fide withdrawal (temporary or permanent) from the labor market is disqualified until he presents certification of a bona fide return to the labor market.

*Pregnant women.*—Thirty-five States have special provisions for disqualification for unemployment due to pregnancy; 21 for unemployment due to marital obligations. Eighteen States have both provisions (table 31). In addition, Rhode Island provides by regulation that a claimant whose employment has been severed because of pregnancy will be presumed to be unable to work but the presumption is not conclusive and may be overcome by affirmative evidence to the contrary.

Of the 35 statutory provisions on pregnancy, 14 hold the woman unable to work and unavailable for work and 21 disqualify her because she left work on account of her condition or because her unemployment is due to pregnancy. In the restriction of benefit rights there is no distinction between the two types of provisions. Nebraska shows the relationship of availability and disqualification by its provision that no woman who has voluntarily quit work because of pregnancy shall be deemed available for work.

Indiana and Michigan disqualify for the duration of unemployment due to pregnancy. Alaska, Arkansas, Connecticut, Minnesota, Montana, North Dakota, and West Virginia require earnings in insured work to reestablish benefit rights; the Connecticut earnings requirement is not applicable if the claimant applies without restriction for her former or for a comparable job with her last employer or if the child dies. Four States<sup>2</sup> disqualify for the duration of the unemployment due to pregnancy but not less than a specified period before and after childbirth. Twenty-two other States provide a specified period before and/or after childbirth but of these, Idaho, Illinois, Pennsylvania, and Washington extend the period to the duration of unemployment or longer if the claimant voluntarily left work (table 31).

*Individuals with marital obligations.*—Of the 21 States with a special provision for unemployment due to marital obligations, all except 5<sup>3</sup> provide for disqualification rather than a determination of unavailability.

Generally, the disqualification is applicable only if the individual left work voluntarily but in Minnesota the disqualification extends to women who lose their jobs because of an employer's rule not to employ married women.

Except for Colorado, Maine, and Oregon, with a limited disqualification, and Idaho, Illinois, Pennsylvania, and Utah, where domestic or economic circumstances may remove the unavailability, the States which have special disqualification for unemployment due to marital obligations disqualify for the duration of the unemployment or longer. However, in Hawaii proof of availability may remove the disqualification. In addition, Colorado and Maine reduce benefit rights, and Minnesota cancels wage credits earned with the employer from whose employ a woman was separated because of his rule not to employ married women. Such cancellation means the denial of benefits for at least the current benefit year—how much longer depends on the benefit formula and the end of the benefit year for the individual claimant.

*Students.*—Six States<sup>4</sup> exclude from coverage the part-time work of students and 33 States exclude service performed by students for educational institutions and hospitals (table 5). Fifteen States have special provisions limiting the benefit rights of students who have had covered employment. Six States<sup>5</sup> disqualify for volun-

<sup>2</sup> Delaware, Massachusetts, Nevada, and Utah.

<sup>3</sup> Hawaii, Idaho, Illinois, North Dakota, and Oklahoma.

<sup>4</sup> Iowa, Kentucky, Massachusetts, New Jersey, New York, and Rhode Island.

<sup>5</sup> Arkansas, Connecticut, Kentucky, Montana, North Dakota, and West Virginia.

tarily leaving work to attend school; in some of these States, the disqualification is for the duration of the unemployment; in others, during attendance at school or during the school term. Seven States\* disqualify claimants during school attendance and in some cases during vacation periods. Indiana considers individuals attending school, college, hospital, or training school as unavailable for work, but accepts as available students who attend night school or part-time school and those who work during vacation; moreover, students who customarily work full time are not considered unavailable when unemployed.

In Michigan, South Dakota, Vermont, and Wisconsin benefits are not payable on wages earned while an individual was a student, with some variations and exceptions. In Michigan, for example, the provision is limited to minor students below college grade, performing less than full-time work or working only during vacations. In Wisconsin, in addition to the restrictions on earning credit weeks, students who work only part time and during vacations are not eligible for benefits based on other work.

The District of Columbia disqualifies an individual under 21 years of age if he fails, without good cause, to accept an agency recommendation that he attend a free vocational or other school. Massachusetts extends the duration to an individual certified as attending an industrial retraining course provided by the State's department of education. Michigan extends the duration to an individual directed by the commission to attend a vocational training school designated by the commission (see page 75). In North Dakota a student may be considered available during vocational training in a program maintained by a Federal, State or other public agency when his unavailability is due solely to requirements of attendance at and completion of such training. In Utah a student attending night school, national defense or part-time training courses is considered available for work but a student attending an established school is considered not available for work unless he was unemployed through no fault of his prior to enrollment, and is actively seeking work and will quit school to accept full-time work.

#### **Disqualification for Fraudulent Misrepresentation To Obtain Benefits**

Forty-eight States have special disqualifications covering fraudulent misrepresentation to obtain or increase benefits. These dis-

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\* Idaho, Montana, Nebraska, Nevada, North Dakota, Ohio, and Vermont.

**Table 31.—Special availability and disqualification provisions for pregnancy and marital obligations, 38 States**

State	Period of disqualification or unavailability	
	Unemployment due to pregnancy <sup>1</sup> (35 States)	Unemployment due to marital obligations <sup>2</sup> (21 States)
Alaska.....	Until employed with wages of at least \$120.	Until employed with wages of at least \$120.
Arkansas.....	Until employed 30 days <sup>3</sup> .....	Until employed 30 days. <sup>4</sup>
California.....		Until employed in bona fide employment. <sup>4</sup>
Colorado.....	1-10 weeks with equal reduction of benefits.	1-10 weeks with equal reduction of benefits.
Connecticut.....	Not less than 2 months before and 2 after childbirth. <sup>5</sup>	
Delaware.....	Not less than 8 weeks before and 6 after childbirth.	
District of Columbia.....	6 weeks before and 6 after childbirth.	
Hawaii.....	4 months before and 2 after childbirth.....	Until shows evidence of availability besides registration for work.
Idaho.....	6 weeks before and 6 after childbirth <sup>4</sup> .....	Until demonstrates desire and availability for work, or becomes main support of self and family.
Illinois.....	13 weeks before and 4 after childbirth <sup>4</sup> .....	Until employed in bona fide work, unless individual becomes sole support of self and family; or until domestic circumstances causing separation cease. <sup>7</sup>
Indiana.....	Duration of unemployment due to pregnancy.	Until employed with wages of at least \$200 under any unemployment insurance law.
Kansas.....	2 months before and 1 after childbirth.	
Kentucky.....		Until employed in bona fide work.
Louisiana.....	12 weeks before and 6 after childbirth.	
Maine.....	6 weeks before and 4 after childbirth.	If voluntarily left work, 5-14 weeks with equal reduction of benefit.
Maryland.....	2 months before and 2 after childbirth.....	
Massachusetts.....	Not less than 4 weeks before and 4 after childbirth. <sup>8</sup>	
Michigan.....	Duration of unemployment due to pregnancy. <sup>1</sup>	
Minnesota.....	Until employed 2 weeks in insured work.	If voluntarily left work, until employed 2 weeks in insured work; if dismissed due to employer rule on employment of married women, all wage credits with such employer canceled. <sup>4</sup>
Mississippi.....		Until employed with earnings of 8 x wba.
Missouri.....	3 months before and 4 weeks after childbirth.	
Montana.....	Duration of unemployment due to pregnancy and until earns qualifying wages. <sup>1</sup>	
Nebraska.....	12 weeks before and 4 after childbirth. <sup>9</sup>	
Nevada.....	Not less than 60 days before childbirth and until proof of ability to resume work is submitted.	Until \$50 is earned in bona fide work.
New Hampshire.....	8 weeks before and 8 after childbirth. <sup>10</sup>	
North Carolina.....	3 months before and 3 after childbirth. <sup>4</sup>	
North Dakota.....	4 months before and until employed with earnings of 10 x wba.	Until employed with earnings of 10 x wba.
Ohio.....	8 weeks before and 8 after childbirth, unless within latter period medical evidence is submitted.	Until employed in insured work with wages equal to wba.
Oklahoma.....	6 weeks before and 6 after childbirth.....	Until employed in bona fide work.
Oregon.....	From week of leaving until 6 weeks after childbirth.	4 weeks subsequent to leaving work.
Pennsylvania.....	3 months before and 1 after childbirth if discharged or laid off; until 8 x wba is earned if voluntarily left work; not so disqualified, unavailable for 30 days before childbirth and 30 days after childbirth.	Until 8 x wba is earned. <sup>4</sup>
South Dakota.....	If voluntarily left work, from date of separation until at least 30 days after childbirth; if dismissed because of pregnancy, at least 60 days before and 30 after childbirth.	
Tennessee.....	Week +4, benefits reduced by 10 x wba.....	Until employed in insured work with wages equal to 5 x wba.
Utah.....	Not less than 12 weeks before and 6 after childbirth.	Until \$100 is earned or individual becomes main support of self or family.
Vermont.....	8 weeks before and 4 after childbirth.....	
Washington.....	10 weeks before and 4 after childbirth <sup>4</sup> .....	
West Virginia.....	Until employed 30 days in insured work.	Until employed 30 days in insured work.
Wisconsin.....	10 weeks before and 4 after childbirth.	

(Footnotes on page 108.)



qualifications from benefits are in addition to the provisions for the repayment of benefits paid as the result of fraudulent claims or their deduction from potential future benefits and the provisions of fines and/or imprisonment for willfully or intentionally misrepresenting or concealing facts concerning employment and earnings which are material to a determination concerning the individual's entitlement to benefits.

*Recovery provisions.*—All State laws contain some provision for the recovery, by the State agency, of benefits paid as the result of fraud on the part of the recipient. In 24 States<sup>7</sup> the provision applies specifically to benefit payments paid as the result of fraudulent misrepresentation; the other States, except Texas, recover such payments under a general provision for recovery of overpayments, whether or not they were due to misrepresentation. Texas recovers only overpayments due to nondisclosure or misrepresentation, whether or not fraudulent.

All but four States provide alternative methods for recovery of overpayments or benefits fraudulently received; the recipient may be required to repay the amounts in cash or to have them offset against future benefits payable to him. New York provides that a claimant shall refund all moneys received because of misrepresentation; and Alabama, for withholding future benefits until the amount due is offset. In Texas and Wisconsin the commission may by civil action recover any benefit obtained through misrepresentation.

*Fines or imprisonment.*—Four State laws (California, Minnesota, Tennessee, and Virginia) provide that any fraudulent misrepresenta-

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<sup>7</sup> Arizona, Arkansas, Colorado, Delaware, District of Columbia, Florida, Hawaii, Indiana, Louisiana, Maine, Minnesota, Missouri, Nebraska, New Hampshire, New York, Ohio, Oklahoma, Oregon, Utah, Vermont, Virginia, Washington, Wisconsin, and Wyoming.

(Footnote for Table 31.)

<sup>1</sup> 14 States (Idaho, Illinois, Indiana, Kansas, Maine, Massachusetts, Missouri, Nebraska, North Carolina, North Dakota, Ohio, South Dakota, Washington, and Wisconsin) provide that if unemployment is due to pregnancy, a woman shall be deemed unavailable for the period specified; the other 21 provide for disqualification.

<sup>2</sup> 5 States (Hawaii, Idaho, Illinois, North Dakota and Oklahoma), provide that an individual who leaves work voluntarily because of marital obligations shall be deemed to be unavailable; the other 16 provide for disqualification.

<sup>3</sup> Not applicable if claimant applies for reinstatement after leave of absence and is not reinstated (Arkansas); disqualification satisfied if claimant, granted leave of absence and assurance of reemployment, was not reemployed (Michigan).

<sup>4</sup> Not applicable if claimant leaves to join husband in new residence and immediately upon arrival enters the labor market and makes a reasonable effort to secure work (Arkansas); if claimant is sole or major support of his or her family (California); if claimant is sole support of herself or main support of member of immediate family (Minnesota); if individual was sole or major support of family during substantial part of 6 months prior to separation, or filing (Pennsylvania).

<sup>5</sup> And until applies without restriction for former or comparable job with last employer or until earns wages of \$100 (Connecticut); benefits not denied if child dies and claimant is otherwise eligible (Connecticut and North Carolina).

<sup>6</sup> And in addition, for the duration of the pregnancy if she voluntarily left work.

<sup>7</sup> If voluntarily leaves locality until claimant becomes sole support of himself or family, the circumstances or family relationships causing him to leave have ceased, the individual returns to locality, or earns 8 times his weekly benefit amount.

<sup>8</sup> Presumed to be unavailable if, solely for personal reasons, she is not able to continue in or return to position in which most recently employed.

<sup>9</sup> After 7th month and for 2 months after childbirth, doctor's certificate that claimant is physically able to work at her most recent employment is required (Montana).

<sup>10</sup> Disqualification satisfied subsequent to childbirth, if she earns weekly benefit amount plus \$3 in 1 week.

tion or nondisclosure to obtain, increase, reduce, or defeat benefit payments is a misdemeanor, punishable according to the State criminal law. Fraudulent misrepresentation or nondisclosure to obtain or increase benefits is a misdemeanor under the Georgia law and a felony under the Idaho law. The other States include in the law a provision for a fine (maximum \$20 to \$1,000) or imprisonment (maximum 30 days to 1 year) or both (table 32). In 20 States the penalty provision applicable to a claimant who is found guilty of misrepresentation or nondisclosure to obtain or increase benefits is the same as that provided for an employer who misrepresents to prevent or reduce benefits. In 19 States the penalty on the employer is greater, in some cases considerably greater, than that applicable

**Table 32.—Penalties for fraudulent misrepresentation: Fine or imprisonment or both in amounts and periods specified <sup>1</sup>**

State	To obtain or increase benefits		To prevent or reduce benefits		State	To obtain or increase benefits		To prevent or reduce benefits	
	Fine <sup>2</sup>	Maximum <sup>3</sup> imprisonment (days unless otherwise specified)	Fine <sup>2</sup>	Maximum <sup>3</sup> imprisonment (days unless otherwise specified)		Fine <sup>2</sup>	Maximum <sup>3</sup> imprisonment (days unless otherwise specified)	Fine <sup>2</sup>	Maximum <sup>3</sup> imprisonment (days unless otherwise specified)
Ala.....	\$25-\$250	3 mos.	\$25-\$250	3 mos. <sup>4</sup>	Mont.....	\$25-\$500	30	\$25-\$500	60
Alaska.....	- 200	60	- 200	60	Neb.....	20- 50	30	20- 200	60
Ariz.....	25- 200	60	25- 200	60	Nev.....	50- 500	6 mos.	50- 500	6 mos.
Ark.....	20- 50	30	20- 200	60	N.H.....	20- 200	1 yr.	25- 500	1 yr.
Calif.....	( <sup>5</sup> )	( <sup>5</sup> )	( <sup>5</sup> )	( <sup>5</sup> )	N.J.....	- 20	- 50	- 50	- 50
Colo.....	25-1,000	6 mos.	25-1,000	6 mos.	N. Mex.....	- 200	60	- 200	60
Conn.....	- 200	6 mos.	- 200	6 mos.	N. Y.....	- 500	1 yr.	- 500	1 yr.
Del.....	20- 50	60	20- 200	60	N.C.I.....	20- 50	30	20- 50	30
D.C.....	- 100	60	-1,000	6 mos.	N. Dak.....	- 100	90	20-100	90
Fla.....	50- 100	30	50- 500	60	Ohio.....	- 500	6 mos.	- 500	6 mos.
Ga.....	( <sup>5</sup> )	( <sup>5</sup> )	20- 200	60	Okla.....	20- 50	30	20- 200	60
Hawaii.....	20- 200	30	20- 200	60	Oreg.....	100- 500	90	100- 500	90
Idaho.....	( <sup>5</sup> )	( <sup>5</sup> )	20- 200	6 mos.	Pa.I.....	30- 200	30	50- 500	30
Ill.....	5- 200	6 mos.	5- 200	6 mos.	R.I.....	20- 50	30	20- 50	30
Ind.....	20- 100	60	20- 100	60	S.C.I.....	20-100	30	20-100	30
Iowa <sup>1</sup> .....	20- 50	30	20- 200	60	S. Dak.....	20- 200	( <sup>5</sup> )	20- 200	60
Kans.....	20- 50	30	20- 200	60	Tenn.....	( <sup>5</sup> )	( <sup>5</sup> )	( <sup>5</sup> )	( <sup>5</sup> )
Ky.....	10- 50	30	10- 50	30	Tex.....	20- 50	30	20- 200	60
La.....	50- 200	90	50- 200	90	Utah.....	50- 250	60	50- 250	60
Maine.....	20- 50	30	20- 200	60	Vt.....	- 50	30	- 50	30
Md.....	50- 500	90	50- 500	90	Va.....	( <sup>5</sup> )	( <sup>5</sup> )	( <sup>5</sup> )	( <sup>5</sup> )
Mass.....	25- 200	30	100- 500	90	Wash.I.....	20- 250	90	20- 250	90
Mich.....	- 100	90	- 100	90	W. Va.....	20- 50	30	20- 200	30
Minn.....	( <sup>5</sup> )	( <sup>5</sup> )	( <sup>5</sup> )	( <sup>5</sup> )	Wis.....	25- 100	30	25- 100	30
Miss.....	20- 50	30	20- 200	60	Wyo.....	- 50	30	- 200	60
Mo.....	50-1,000	6 mos.	50-1,000	6 mos.					

<sup>1</sup> In States footnoted, law does not require both fine and imprisonment, except Iowa which may impose both fine and imprisonment for fraudulent misrepresentation to prevent or reduce benefits and Pennsylvania to obtain or increase benefits.

<sup>2</sup> Where only one figure is given, no minimum penalty is indicated; law says "not more than" amounts specified.

<sup>3</sup> Louisiana and South Dakota specify a minimum imprisonment of 30 days.

<sup>4</sup> General penalty for violation of any provisions of law; no specific penalty for misrepresentation to prevent or reduce benefits and, in Vermont, to obtain or increase benefits. In Ohio, penalty for each subsequent offense, \$25-\$1,000.

<sup>5</sup> Misdemeanor.

<sup>6</sup> Felony.

to the claimant. Usually the same penalty applies if the employer knowingly makes a false statement or fails to disclose a material fact to avoid becoming or remaining subject to the act or to avoid or reduce his contributions. Five States provide no specific penalty for fraudulent misrepresentation or nondisclosure; in these States the general penalty is applicable. (See footnote 4, table 32.) The most frequent fine on the worker is \$20-\$50 (12 States) and on the employer, \$20-\$200 (14 States).

*Disqualification for misrepresentation.*—The provisions for disqualification for fraudulent misrepresentation follow no general pattern. In most of the States which disqualify for fraud, the intention to defraud is disqualifying, but in Illinois and Wyoming there is no administrative disqualification unless benefits have been received as a result of the fraudulent act. In eight States<sup>a</sup> there is a more severe disqualification when the fraudulent act results in payment of benefits; in California, Nevada, New Hampshire, Oregon, and Pennsylvania, when the claimant is convicted.

In California any claimant *convicted* of misrepresentation under the penalty provisions is disqualified for one year. In Rhode Island and Virginia there is no disqualification unless the claimant has been convicted of fraud by a court of competent jurisdiction. On the other hand, in Hawaii and Pennsylvania a claimant is not subject to the administrative disqualification if penal procedures have been undertaken; in Massachusetts administrative disqualification precludes initiation of penal procedures.

In the District of Columbia, Massachusetts, New Hampshire, and Pennsylvania application of the disqualification is not mandatory but is left to the discretion of the agency. In Arizona, Kentucky, and Minnesota the duration of the disqualification is at the discretion of the agency.

In many States the disqualification is, as would be expected, more severe than the ordinary disqualification provisions. In 12 States the disqualification is for at least a year; in others it may last longer. The provisions are difficult to compare because some disqualifications start with the date of the fraudulent act while others begin with the discovery of the act, the determination of fraud or conviction by a court; some begin with the filing of a first claim, while others are for weeks that would otherwise be compensable. The disqualification provisions are, moreover, complicated by tie-in with recoupment provisions and by retroactive impositions.

As table 33 shows, the cancellation of wage credits in many States means the denial of benefits for the current benefit year or longer. A disqualification for a year means that wage credits will have

<sup>a</sup> Arizona, Idaho, Kentucky, Louisiana, Michigan, Ohio, Utah, and Vermont.

Table 33.—Special provisions for disqualification for fraudulent misrepresentation to obtain benefits, 48 States

State	Duration of disqualification <sup>1</sup>	Benefits reduced or canceled
Alabama.....		4 x wba—\$440 in current or succeeding benefit year. <sup>3</sup>
Alaska.....	26 <sup>1, 2</sup>	(9).
Arizona.....	12-62 weeks <sup>1, 2, 3</sup>	(9).
Arkansas.....	Current benefit year+ <sup>4</sup>	All wage credits prior to act canceled.
California.....	1-10; if convicted W+51 <sup>1, 2</sup>	(9).
Colorado.....	Period of adjudication as determined by agency.	(9).
Connecticut.....	2-20 weeks for which otherwise eligible <sup>1, 2</sup>	Mandatory equal reduction.
Delaware.....	W+51	X. <sup>9</sup>
District of Columbia.....	All or part of remainder of benefit year and for 1 year commencing with the end of such benefit year. <sup>3</sup>	X. <sup>9</sup>
Florida.....	1-62 weeks <sup>1</sup>	(9).
Georgia.....	Current benefit year+ <sup>4</sup>	All unpaid benefits for unemployment after act and until 4 complete calendar quarters after determination of fraud canceled. <sup>3</sup>
Hawaii.....	1-62 weeks <sup>1, 2</sup>	(9).
Idaho.....	If fraudulent benefits received, until such amounts are repaid.	(9).
Illinois.....	If fraudulent benefits received, until such amounts and penalty are repaid or withheld. <sup>3</sup>	(9).
Indiana.....	Up to current benefit year+ <sup>4</sup>	All wage credits prior to act canceled.
Kansas.....	W+51	X. <sup>9</sup>
Kentucky.....	W+up to 62 weeks; if fraudulent benefits received, until such amounts are repaid. <sup>1, 2</sup>	(9).
Louisiana.....	W+52; if fraudulent benefits received, until such amounts are repaid.	X. <sup>9</sup>
Maine.....	13-62 weeks <sup>1</sup>	Mandatory equal reduction for fraudulent weeks.
Maryland.....	1 year and until benefits repaid <sup>2</sup>	X. <sup>9</sup>
Massachusetts.....	1-10 weeks for which otherwise eligible <sup>1, 2</sup>	
Michigan.....	Current benefit year+; if fraudulent benefits received, until such amounts are repaid. <sup>1, 2</sup>	All uncharged credit weeks canceled.
Minnesota.....	W+up to end of current or succeeding benefit year.	(9).
Mississippi.....	W+52 <sup>1</sup>	X. <sup>9</sup>
Missouri.....	Up to current benefit year+ <sup>4</sup>	All or part of wage credits prior to act canceled.
Nebraska.....	Up to current benefit year+ <sup>4</sup>	All or part of wage credits prior to act canceled.
Nevada.....	W+1-52; if convicted W+51	X. <sup>9</sup>
New Hampshire.....	4-52 weeks; if convicted 1 year after conviction; and until benefits repaid or withheld. <sup>3</sup>	Mandatory equal reduction.
New Mexico.....	62 weeks <sup>1</sup>	X. <sup>9</sup>
New York.....	20-80 days for which otherwise eligible <sup>1, 2</sup>	Mandatory equal reduction.
North Carolina.....	W+51	X. <sup>9</sup>
North Dakota.....	W+51	X. <sup>9</sup>
Ohio.....	Duration of unemployment+ <sup>10</sup>	X. <sup>10</sup>
Oklahoma.....	W+51 <sup>1, 2</sup>	Base period or benefit year may not be established during period.
Oregon.....	Up to 26 weeks; if convicted, until benefits repaid or withheld. <sup>1</sup>	If convicted, all wage credits prior to conviction canceled. <sup>3</sup>
Pennsylvania.....	2 weeks plus 1 week for each week of fraud or if convicted of illegal receipt of benefits, 1 year after conviction. <sup>2, 11</sup>	X. <sup>9</sup>
Rhode Island.....	If convicted, 1 year after conviction.	X. <sup>9</sup>
South Carolina.....	W+51 <sup>1</sup>	X. <sup>9</sup>
South Dakota.....	1-62 weeks <sup>1</sup>	(9).
Tennessee.....	W+4-52	(9).
Texas.....	Current benefit year	Benefits for remainder of benefit year canceled.
Utah.....	W+51; and until benefits received fraudulently are repaid.	X. <sup>9</sup>
Vermont.....	Until amount of fraudulent benefits are repaid or withheld +1-26 weeks. <sup>1</sup>	(9).
Virginia.....	If convicted, current benefit year	Base-period wage credits canceled.
Washington.....	Week of fraudulent act+26 weeks following filing of first claim after determination of fraud. <sup>1</sup>	X. <sup>9</sup>
West Virginia.....	W+5-52 weeks <sup>1, 12</sup>	Mandatory reduction of 5 times weekly benefit amount for each week of disqualification.
Wisconsin.....	Each week of fraud	1-8 weeks. <sup>1, 13</sup>
Wyoming.....	If convicted, 2 weeks for each week of fraud.	

(Footnotes on page 118.)

expired, in whole or in part, depending on the end of the benefit year and the amount of wage credits accumulated for another benefit year before the fraudulent act, so that future benefits are reduced as if there had been a provision for cancellation. In other States with discretionary provisions or shorter disqualification periods, the same result will occur for some claimants. Altogether, misrepresentation involves cancellation or reduction of benefit rights in 33 States and may involve reduction of benefit rights for individual claimants in 13 more States. The disqualification for fraudulent misrepresentation usually expires after a second benefit year, but in Washington it may be imposed at any time within 2 years after a finding of fraud and in Ohio at any time within 4 years after such finding. In 10 States<sup>9</sup> the agency may deny benefits until the benefits obtained through fraud are repaid. In Minnesota, if benefits fraudulently obtained are not repaid within 20 days from the date of notice of finding of fraud, such amounts are deducted from future benefits in the current or *any* subsequent benefit year.

### Disqualifying Income

Practically all the State laws include a provision that a claimant is disqualified from benefits for any week during which he is receiving or is seeking benefits under any Federal or other State unemployment insurance law. A few States mention specifically benefits under the Federal Railroad Unemployment Insurance Act or serv-

\* Idaho, Illinois, Kentucky, Louisiana, Maryland, Michigan, New Hampshire, Oregon, Utah, and Vermont.

#### (Footnotes for Table 83.)

<sup>1</sup> "W" means week in which the act occurs plus the indicated number of consecutive weeks following. The period of disqualification is measured from date of determination of fraud (Alaska, Hawaii, Kentucky, Maine, Maryland, Michigan, Mississippi, New Mexico, Oklahoma, and Vermont); date of claim or registration for work (Arizona, California, South Carolina, and West Virginia); waiting or compensable week after its discovery (Connecticut, Florida, Massachusetts, New York, and South Dakota); as determined by agency (Oregon).

<sup>2</sup> Provision applicable at discretion of agency.

<sup>3</sup> Provision applicable only if claim filed within 2 years after offense (Alaska, Arizona, Hawaii, Maryland, and New York); if claim filed within 2 years after discovery of offense (Connecticut); if determination of fraud is made within 12 months after offense (Georgia and Pennsylvania); if determination of fraud is made within 2 years after offense (Kentucky and Oklahoma); if court proceedings are not undertaken (Hawaii and Pennsylvania); if claim is filed within 2 years following determination of fraud (Washington); if claim is filed within 2 years after conviction (Wyoming).

<sup>4</sup> Before disqualification period ends, wage credits may have expired in whole or in part depending on disqualification imposed and/or end of benefit year. State not counted in the 33 States which reduce or cancel benefits.

<sup>5</sup> Statutory provision is 1-52 weeks according to circumstances. By regulation: 12 weeks for failure to report wages for 1 week; 26 weeks for failure to report wages for 2 weeks; and 52 weeks for such failure for 3 or more weeks.

<sup>6</sup> Cancellation of all wage credits means that period of disqualification will extend into second benefit year, depending on the amount of wage credits for such a year accumulated before fraudulent claim.

<sup>7</sup> Plus an additional week for each week claimant fails to report; agency may add 1-8 weeks more for successive disqualifications.

<sup>8</sup> Before disqualification period ends, wage credits will have expired in whole or in part, depending on end of benefit year.

<sup>9</sup> Penalty is equal to greater of amount fraudulently received or current weekly benefit amount unless 3 years have elapsed from notification to repay.

<sup>10</sup> In addition, claims shall be rejected within 4 years and benefits denied for a period determined by the agency and until repayment of benefits fraudulently drawn.

<sup>11</sup> And until benefits withheld or repaid if a finding of fault on the part of the claimant has been made.

<sup>12</sup> For each week of disqualification for fraudulent claim, an additional 5-week disqualification is imposed.

<sup>13</sup> Compensable weeks within 2-year period following date of determination of fraud for concealing earnings or refusal of job offer.

icemen's allowances, except benefits under title IV of the Veterans' Readjustment Assistant Act of 1952 (see ch. VII). Under most of the laws, no disqualification is imposed if it is finally determined that the claimant is ineligible under the other law. The intent is clear—to prevent duplicate payment of benefits for the same week. It should be noted that such "disqualification" applies only to the week in which or for which the other payment is received.

Thirty-nine States have statutory provisions that a claimant is disqualified for any week during which he receives or has received certain other types of remuneration such as wages in lieu of notice,

**Table 34.—Effect on weekly benefits of receipt by claimants of various types of disqualifying income, 39 States\***

State	Workmen's compensa- tion payments (22 States) <sup>1</sup>	Old-age insurance benefits (11 States) <sup>2</sup>	Employers' pension plans (22 States)	Wages in lieu of notice (20 States)	Dismissal payments (18 States)	Supple- mental unemploy- ment benefits (2 States)
Alabama	<sup>1</sup> R		<sup>1</sup> R	D	D	
Arizona				D	D	
Arkansas			<sup>1</sup> R		D	
California					<sup>1</sup> R	
Colorado	<sup>1</sup> R	R	<sup>1</sup> R	R		
Connecticut	<sup>1</sup> D		R	D	D	
Florida	R			R		
Georgia	<sup>1</sup> D			D		
Illinois	<sup>1</sup> R	<sup>4</sup> R	<sup>2</sup> R			
Indiana			<sup>2</sup> R	R	R	
Iowa	<sup>1</sup> R	R	<sup>2</sup> R	R		
Kentucky			<sup>2</sup> R	R		
Louisiana	R	R	<sup>2</sup> R	R		
Maine			<sup>2</sup> R	R	R	
Massachusetts	D			R		
Michigan			<sup>2</sup> R	R		
Minnesota	<sup>1</sup> R	R	<sup>2</sup> R	R	R	
Missouri	<sup>1</sup> R	R	<sup>2</sup> R	R	R	
Montana	<sup>1</sup> D		(?)	D	D	
Nebraska	R	R	<sup>2</sup> R	R	R	
Nevada				D		
New Hampshire	R			D	R	
New Jersey				R		
North Carolina					<sup>4</sup> D	<sup>4</sup> D
North Dakota			<sup>2</sup> R			
Ohio	R			R	R	
Oklahoma		R	R			
Oregon			<sup>2</sup> R		R	
Pennsylvania			<sup>2</sup> R	R	R	
Rhode Island	R					
South Dakota	D		<sup>2</sup> R	R		
Tennessee	<sup>1</sup> D		<sup>2</sup> R	D		
Texas	<sup>1</sup> D	<sup>4</sup> R	<sup>4</sup> R	D		
Utah		<sup>4</sup> R	<sup>4</sup> R			
Vermont	R			R		
Virginia					R	D
West Virginia	<sup>1</sup> D	D	<sup>2</sup> R	D	D	
Wisconsin	<sup>1</sup> D	(?)	<sup>2</sup> D			
Wyoming				R		

\*R means weekly benefits reduced by amount of payment. D means no benefits are paid for week of receipt.

<sup>1</sup> See text for types of payments listed as disqualifying income in States noted. In other (11) States the disqualification or reduction applies only to payments for temporary partial disability.

<sup>2</sup> See text for details.

<sup>3</sup> By interpretation.

<sup>4</sup> Reduction limited to one-half of weekly amount if employer did not pay all the cost (Illinois); reduction of weekly amount by one-half of retirement payments (Utah).

<sup>5</sup> Excludes old-age and survivors insurance, railroad retirement program, and private retirement plan to which employee was sole contributor (Pennsylvania); excludes retirement pay or compensation for service-connected disabilities, or pensions based on military service (Iowa).

<sup>6</sup> Includes government retirement plans except old-age and survivors insurance.

dismissal wages, workmen's compensation for temporary partial disability, primary insurance benefits under old-age and survivors insurance, benefits under an employer's pension plan or under a supplemental unemployment benefit plan. In many States if the payment concerned is less than the weekly benefit the claimant gets the difference; in other States no benefits are payable for a week of such payments regardless of the amount of payment (table 34). A few States provide for rounding the resultant benefits like payments for weeks of partial unemployment to even 50-cent or dollar amounts.

*Wages in lieu of notice and dismissal payments.*—The most frequent provision for disqualification for receipt of other income is for weeks in which the claimant is receiving wages in lieu of notice (29 States). In 10 of these States the claimant is totally disqualified for such weeks; in 19, if the payment is less than the weekly benefit amount, the claimant gets the difference. Thirteen States have the same provision for receipt of dismissal payments as for receipt of wages in lieu of notice; and California, which does not list wages in lieu of notice as disqualifying income, deducts dismissal payments. The State laws use a variety of terminology such as dismissal allowances, dismissal payments, dismissal wages, separation allowances, termination allowances, severance payments, or some combination of these terms. In many States all dismissal payments are included as wages for contribution purposes after December 31, 1951, as they are under the Federal Unemployment Tax Act. Other States continue to define wages in accordance with the Federal Unemployment Tax Act prior to the 1950 amendments, so as to exclude from wages dismissal payments which the employer is not legally required to make. To the extent that dismissal payments are included in taxable wages for contribution purposes, claimants receiving such payments are not unemployed—or not totally unemployed—for the weeks concerned. Some States have so ruled in general counsel opinions and benefit decisions. However, only the Pennsylvania law limits the disqualifying dismissal payments to those which an employer is required to make by law or contract. Indiana and Minnesota specifically provide for deduction of dismissal payments whether or not legally required.

*Workmen's compensation payments.*—Twenty-two State laws list workmen's compensation under any State or Federal law as disqualifying income. Eight disqualify for the week concerned, including Connecticut, which does so retroactively; the other 14 States consider workmen's compensation deductible income and reduce unemployment benefits payable by the amount of the workmen's compensation payments. Ten States limit disqualifying workmen's

compensation payments to those for temporary partial disability, the type of workmen's compensation payments which it is most likely that a claimant could receive while certifying that he is able to work. The Alabama, Colorado, Connecticut, Illinois, and Iowa laws say merely "temporary disability." Montana's provision is in terms of total disability and Georgia's, West Virginia's and Wisconsin's, in terms of temporary total disability. The Massachusetts provision is in terms of partial or total disability but specifically excludes weekly payments because of dismemberment. Texas lists temporary partial disability, temporary total disability, and permanent total disability; and Minnesota, any compensation for loss of wages under a workmen's compensation law.

*Retirement payments.*—Eleven States consider some type of "benefits under title II of the Social Security Act or similar payments under any act of Congress" as disqualifying income (table 34). All except West Virginia provide for paying the difference between the weekly benefit and the monthly old-age and survivors insurance benefit prorated to the week.

Twenty-two States list payment under an employer's pension plan. The provisions usually apply only to retirement plans, but Nebraska and South Dakota include also employers' payments in case of disability. The laws specify that the compensation for retirement which is deductible must have been paid for, wholly or partially, by the employer or provided for by an employer contract or agreement. Alabama and Arkansas do not reduce benefits if the payments are based entirely on wages from employment other than that from which retired, nor does Arkansas reduce benefits if the worker contributed to the fund; and Missouri reduces to the extent that such pensions are paid from funds not provided by the claimant. Illinois deducts the total prorated amount if the employer paid all the cost and one-half the amount if the employer paid only part of the cost. Maine reduces benefits by the employer's pension payment only if the individual is receiving both old-age and survivors insurance benefits and an employer's pension. Minnesota and South Dakota reduce benefits if the employer contributed over 50 percent of its cost, and Tennessee reduces benefits if employer paid 50 percent or more of cost. The Indiana and Michigan provisions for reduction apply only if some or all of the benefits otherwise payable are chargeable to the experience-rating account of an employer paying such pension. Retirement payments are deductible from benefits in Colorado, Louisiana, Pennsylvania, and West Virginia if a base-period employer contributed on behalf of the claimant. North Dakota reduces benefits if the employer contributed substantially to retirement plan, or if plan is supported wholly or in part, by public contributions, or supported by both. In Wisconsin



a claimant is disqualified for retirement payments received under a group-retirement system to which the employer has contributed substantially or under a government-retirement system if he left his employment with the chargeable employer to retire before reaching the employer's compulsory retirement age; if he left or lost his employment with that employer at the compulsory retirement age, his weekly benefit is reduced by the weekly rate of such retirement payments less \$5.

Montana's provision on employer-financed pensions differs from those of other States in that the deduction is made from the wage credits on which benefits are based rather than from the weekly benefit payment. In this State the wage credits earned from an employer by whom the claimant was retired are not used in the computation of benefits due him after such retirement.

*Supplemental unemployment payments.*<sup>10</sup>—A supplemental unemployment benefit plan is a system whereby, under a contract, payments are made from an employer-financed trust fund to his workers. The purpose is to provide the worker, while unemployed, with a combined unemployment insurance and supplemental unemployment benefit payment amounting to a specified proportion of his weekly earnings while employed. There are two major types of such plans: (1) Those under which the worker has no vested interest and is eligible for payments only if he is laid off by the company; and (2) those under which the worker has vested interest and may collect if he is out of work for other reasons, such as illness or permanent separation. Rulings of States relative to supplemental unemployment benefit plans indicated in table 34 are confined to those plans under which the worker has no vested interest—the Ford-General Motors type.

Actions have been taken by 45 States<sup>11</sup> on the question of permitting supplementation in regard to supplemental unemployment benefit plans of the Ford-General Motors type. Forty-three States permit supplementation without affecting unemployment insurance payments and two States (North Carolina and Virginia) do not. Alaska, Maine, New Hampshire, New Mexico, South Carolina, and South Dakota have not taken any action on the supplemental unemployment benefit plans. In 36 of the 43 States permitting supplementation, an interpretative ruling was made either by the attorney general (in 27 States) or by the employment security agency (in nine States). In the other seven States (California, Colorado,

<sup>10</sup> For a detailed analysis of the supplemental unemployment benefit plans, see *Supplemental Unemployment Benefit Plans and Unemployment Insurance*, September 1957 (BES No. U-172). A copy may be obtained on request to the Bureau of Employment Security, United States Department of Labor, Washington 25, D.C.

<sup>11</sup> All except Alaska, Maine, New Hampshire, New Mexico, South Carolina, and South Dakota.

Georgia, Hawaii, Indiana, Maryland, and Ohio), permitting supplementation, the State legislatures amended the unemployment insurance statutes. In North Carolina supplementation is not permitted under an interpretative ruling by the agency; in Virginia supplementation is not permitted by an amendment to the statute.

Some supplemental unemployment benefit plans of the Ford-General Motors type provide for alternative payments or substitute private payments in a State in which a ruling not permitting supplementation is issued. These payments may be made in amounts equal to three or four times the regular weekly private benefit after 2 or 3 weekly payments of State unemployment insurance benefits without supplementation; in lump sums when the layoff ends or the State benefits are exhausted (whichever is earlier); or through alternative payment arrangements to be worked out—depending on the particular supplemental unemployment benefit plan.

*Relationship with other statutory provisions.*—The 12 States<sup>12</sup> which have no provision for any type of disqualifying income and the much larger number which have only one or two types do not necessarily allow benefits to all claimants in receipt of the types of payments concerned. When they do not pay benefits to such claimants, they rely upon the general "able-and-available" provisions or the definition of unemployment. Some workers over 65 receiving primary insurance benefits under old-age and survivors insurance are able to work and available for work and some are not; in the States without special provisions that such payments are disqualifying income, individual decisions are made concerning the rights to benefits of claimants of retirement age. Many workers receiving workmen's compensation, other than those receiving weekly allowances for dismemberment, are not able to work in terms of the unemployment insurance law. However, receipt of workmen's compensation for injuries in employment does not automatically disqualify an unemployed worker for unemployment benefits. Many States consider that evidence of injury with loss of employment is relevant only as it serves notice that a condition of ineligibility may exist and that a claimant may not be able to work and may not be available for work.

Table 34 does not include the provisions in several States listing vacation pay as disqualifying income because many other States consider workers receiving vacation pay as not eligible for benefits; several other States hold an individual eligible for benefits if he is on a vacation, without pay through no fault of his. In practically all States, as under the Federal Unemployment Tax Act,

<sup>12</sup> Alaska, Delaware, District of Columbia, Hawaii, Idaho, Kansas, Maryland, Mississippi, New Mexico, New York, South Carolina, and Washington.

vacation pay is considered wages for contribution purposes—in a few States in the statutory definition of wages; in others in official explanations, general counsel or attorney general opinions, interpretations, regulations, or other publications of the State agency. Thus a claimant receiving vacation pay equal to his weekly benefit amount would, by definition, not be unemployed and be eligible for benefits. Some of the explanations point out that vacation pay is considered wages because the employment relation is not discontinued, and others emphasize that a claimant on vacation is not available for work. Vacation payments made at the time of severance of the employment relationship rather than during a regular vacation shutdown are considered disqualifying income in some States, only if such payments are required under contract and are allocated to specified weeks; in other States such payments, made voluntarily or in accordance with a contract, are not considered disqualifying income.